Injunctions as a legal weapon in collective industrial disputes in Britain, 2005-2014

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Abstract

This article examines the frequency, nature and outcomes of employers seeking injunctions against strikes and industrial action mounted by unions between 2005 and 2014. The number of actual and threatened applications continues to be relatively high compared with the previous period when strike levels were significantly higher, with employers continuing to gain overwhelmingly successful outcomes. Yet usage is increasingly concentrated in a small number of industrial sectors, suggesting the notion of 'strike effectiveness' provides the best means by which to explain their relative frequency and presence. Comparative analysis with Ireland highlights the specificity of the nature of British legal regulation of employer seeking injunctive relief.

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Introduction

The regulation of industrial action in Britain, especially through employer applications for injunctions to prevent and end strikes, has become an increasingly political 'hot potato'. For labour, it has been claimed new interpretations of legislation, made during adjudications for injunctions, have greatly lessened unions' ability to organise lawful action. In the March 2011 edition of its magazine, the Rail, Maritime and Transport (RMT) union's general secretary, Bob Crow, claimed had an injunction won by Serco not been overturned on appeal, it 'would have more or less completely banned the right to strike'. For capital, calls have been made from bodies like the Confederation of British Industry (CBI) to raise thresholds for lawful mandates for industrial action because, it argued, too many strikes proceed with insufficient membership ballot support. Acting upon its 2015 election manifesto, in the form of the *Trade Union Bill*, the Conservative Party has proposed new thresholds for strike mandates, comprising i) a minimum voting turnout of half of eligible members, and ii) at least 40% of all those entitled to vote voting for action in health, education, fire and transport, meaning non-voters become 'no' voters. The Trades Union Congress (press releases 12 May 2015, 16 December 2015) described these changes as making 'legal strikes close to impossible' and data showing a 74% decline in days 'lost' to strikes over the previous year 'highlight[ed] once again the flimsiness of the government's case' while the Institute of Employment Rights (*Morning Star* 28 May 2015) believed they represented 'an open invitation to employers and courts to interfere and delay legitimate industrial disputes'. In this context, this article presents data on the frequency and outcome of employer applications for injunctions, and threats thereof, between 2005 and 2014[1], and considers their outcomes and sectoral and union distribution. While injunctions continue to be applied for by employers, the relative frequency of doing so has declined in the period under study. Yet threats of applications have increased markedly. Then the notion of 'strike effectiveness' is used to explain why injunctions are still applied for or threatened, especially within a narrow array of sectors and situations. Finally, comparison with Ireland highlights the specificity of British regulation of employers seeking injunctive relief.

Legal regulation, industrial action and industrial relations

Traditionally, Britain's industrial relations have commonly been characterised as voluntarist, comprising *relative* legal abstention, with primacy given to self-regulating employment relations through collective bargaining. This system ended over a period from the late 1960s onwards, with increased state intervention regulating unions and their activities in order to weaken this voluntarist socialised goverance and then provide individual legal rights with the aim of re-establishing managerial control as a route to economic efficiency (as per neo-liberalism). This trajectory was not much altered by Labour government (1997-2010) reforms. Although involving significant rupture, further legislative regulation of industrial action introduced by Conservative governments (1979-1997) was based upon making the legal immunities afforded to unions in contemplation or furtherance of trade disputes[2] – originally established in the *Trade Disputes Act 1906* - increasingly conditional and subject to higher penalties for transgressions. Consequently, a key hallmark of the British system continues to be state provision for private remedy by directly involved aggrieved parties, namely, employers, to seek injunctive relief to prevent or end industrial action. Applications for injunctions are applications for interim relief, namely, temporary orders granted to compel unions to desist from organising industrial action (strikes, industrial action short of a strike (IASOS)) pending a full hearing of the legal issues at a later date when the injunction can be confirmed or rescinded. With the interim injunction, the burden of proof is less onerous, merely focusing upon whether an arguable case exists and potential harm to employers is such that award of damages would not be a sufficient remedy. *Ex parte* hearings are exceptional.

In its essentials, the legal framework governing injunctions remains unchanged since the early 1990s despite governments of different hues and various changes (legislative or case law). Thus, simplifying requirements concerning ballots and notices, and successful appeals in 2011 by the RMT (versus Serco) and ASLEF (versus London & Birmingham Railways) against the granting of injunctions on the basis of minor errors have not altered the fundamental framework by which the law operates. This concerns detailed requirements on balloting for action and notification of balloting, its result and intended action. That is not say that, for example, the *Employment Relations Act 2004* simplifying provisions on the details of balloted members and aforementioned appeals have been unimportant in providing unions with some confidence that taking reasonable steps to ensure the accuracy and integrity of their internal administrative procedures and membership data will suffice in court. Rather, it is to argue the basic regulations of the original framework remain in place, and even where subsequent jurisprudence results in a) unforeseen outcomes undermining of the intended spirit of the new provisions (as was the case with the amendment of sections 226A and 234A of the *Trade Union and Labour Relations (Consolidated) Act 1992* by the *Employment Relations Act 1999* with regard to specifying categories and names of workers being balloted); and b) the overturning of what were regarded as established precedents (which allowed for errors or imprecision that did not materially affect ballot outcomes or validity of employer notices), this remains the case as these only affect the margins. Consequently, the terrain for judging the frequency of applications and threats, alongside the basis upon which they are made, has remained level in both shorter (2005-2014) and longer (1995-2004) timeframes.

The canvass upon which employers can apply for injunctions comprises not merely strikes and IASOS but also potential and intended cases as a result of ballot mandates (which run roughly at five times strike level as Table 1 indicates). In order to maintain legal immunity, unions are required to secretly (postal) ballot appropriate members according to specified regulation and similarly notify employers of the ballot, the ballot constituency, forms of action, then the detailed ballot result and, with due notice, which members are taking what action, where, when and for how long. Allegations of deficiency in some aspect provide grounds for applications for injunctions or make threats to. The following examples of injunctions, where no material difference was made to mandates' validity by the errors, highlight the acute way in which courts have applied the legislative framework: in 2007, a Royal Mail strike was injuncted because the union did not tell the employer exactly how many employees were employed; in 2008, a Metrobus drivers' strike was injuncted because the union took too long (48 hours) to fax the ballot result to the employer; in 2009, a British Airways (BA) strike was injucted because some members had already agreed to take voluntary redundancy; and in 2010, a Milford Haven port strike was injuncted because the notice of 'discontinuous' and 'continuous' action was given on one, not two sheets of paper (see also Dukes (2010, 2011), Prassl (2011) and Simpson (2013) on these and other recent cases). The paucity of unofficial (i.e., unballoted) strikes and IASOS (Gall and Cohen 2013:94-98) means statistics on mandates for (official) strike and industrial action give a far better indication of the canvas's size than the number of strikes and cases of IASOS (even though a large proportion of mandates are neither implemented nor threatened to be).

Finally, while adjudication of injunctions is a matter of law, the decision to litigate – or to threaten to - is largely a matter of industrial relations.[3] Thus, employer behaviour is essentially a matter of collective bargaining, for applications - or threats - represent attempts to gain leverage in order to instil changed perspectives so as to settle disputes on terms favourable to employers. Employers' attempts to do so are credible because employers gain most of the injunctions they seek and the consequences of defying injunctions by being held in contempt of court are considerable in financial and political terms. The point is emphasised for, almost without exception, employers do not return

to court seeking injunctions become permanent because their immediate objective in preventing or stopping the industrial action has been gained.[4]

Table 1 here

Methodology

Data is drawn from various secondary sources, being media releases and publications from unions, and reporting in the quality press, comprising local, regional and national 'broadsheets'. Although not duplicates, there is some overlap between the two given unions are the keenest party to publicise employers sought and/or gained injunctions and newspapers seldom now employ labour correspondents to independently generate such stories. Reporting of injunctions usually contains employer statements confirming essential facts and basic rationale. Specialist sources such as law reports,[5] employment law and personnel media, and the radical press (like *Socialist Worker*, *Morning Star*) were also used because unions have not always publicised applications against them – often because their mistakes gave employers the latitude. The three sources were used to achieve a basic level of corroboration. Unions themselves were not approached directly because of previous experience in gaining a significant degree of non-response and incomplete response (judged by cases reported compared to those gathered by the author) as a result of the information not being held in a single repository. Moreover, it was not as simple as merely asking unions' legal or research departments for details of injunctions (or threats). Indeed, some unions responded by advising their websites for press releases should be consulted. Attempts to correspond with a selection of employers on the dynamics and dimensions of why they sought injunctions proved unproductive. Judged by what response was gained, their unwillingness to respond stemmed from public sensitivity to discussing matters with outside, third parties and their desire to 'move on' from this aspect of the past while their inability stemmed from changes in personnel leading to a loss of knowledge and absence of suitable records which could be publicly released. For reasons of client confidentiality, approaches to lawyers acting for employers were no more successful.[6]

Nonetheless, the data has a high but not total degree of completeness on applications for injunctions (and their essential characteristics) for while not all applications will have been identified given the weakness of the aforementioned union sources and declining media focus upon industrial relations, because the number of applications for injunctions in absolute terms is relatively low, and the media tends to concentrates upon the conflictual aspects of industrial relations like strikes. However, concerning threats to apply, the degree of completeness is likely to be less for not all threats are reported by unions or media. For unions, this is because highlighting the threat is often seen as either a diversion from the tasks at hand or of no help in gaining objectives. For the media, the threat is not necessarily regarded as newsworthy because a strike – which is seen as newsworthy – is not yet in close prospect.

The distinction between threatening to apply and applying for injunctions requires elaboration. The former comprises making threats prior to initiating proceedings to apply as well as initiating proceedings themselves. Only when the process for hearing the application has begun, with papers served on unions, does the threat end and become an actuality. At any point in the process from making a threat to the court's decision upon adjudication, employers can withdraw their threats to apply or the application itself. Recorded threats were not deemed 'empty' or 'vague' but sufficiently 'serious' and 'specific' judged by union response. Thus, even where unions continued with ballots or action, they took lawyer's advice on employers' threats - rather than dismiss them out of hand as bluster - and advice was considered by senior officers or senior union committees.

Frequency, outcomes, grounds and sectors

The years 2005-2014 (Table 2) continued the decline in the number of applications for injunctions, with 65 compared to 78 from 1995-2004. The 1980s saw 136 applications while the 1990s 97 and 2000s 61. The first half of the 2010s saw 34 applications. Put another way, the first high point was 1984-1986 with 68 applications followed by lower spikes of 38 (1989-1991) and 41 (1994-1996). The spike of the last decade was 2009-2011 with 31 applications. Falling applications (and threats to apply) after 2011 is heavily related to case law developments (see below). As with 1995-2004, the overwhelming majority of applications (and threats to apply) concern strikes and not IASOS.[7]

Table 2 here

Of the 65 applications (Appendix 1), 36 (55%) were granted and 21 (32%) were rejected with all but one of the remainder being withdrawn at some point between the beginning of the hearing and before judgment as result of the action being ended, stood down or negotiations resolving disputes. There were seven appeals against injunctions, with 71% were successful. In only 12 cases did unions reballot after injunctions were granted and in only two cases were strikes then forthcoming (with one planned but called off due to successful negotiations).[8] Between 1995 and 2004, 72% of applications were granted (with 6% overturned on appeal), 17% rejected and 9% withdrawn after applications were heard but before judgment (see Gall 2006:332). There were five cases of reballoting (in which only one case of action was then forthcoming). Such outcomes cast doubt on union claims of there being 'no right to strike' even though employers gained positive outcomes in well over two thirds (those granted, those withdrawn) of injunctions applied for during 2005-2014 (albeit this was down from 80% during 1995-2004).

Dividing the known grounds (n=66) for applications into six categories (strike notices; balloting process and ballot notices; existence of a trade dispute; matters relating breach of picketing regulations; others such as unballoted and unlawful action; and unknown) reveals 54% concerned balloting process and ballot notices. Reasons here concerned not all required members being balloted, inappropriate members being balloted, and deficiencies in information on those to be balloted and likewise deficiencies regarding the notification of results of those balloted. Issues relating to strikes notices (see before) accounted for 9% of grounds, trade disputes 3%, picketing 8%, others 14% and unknown reasons 12%. Using a re-categorisation of the 71 grounds cited between 1996 and 2004 (Gall 2006), strike notices accounted for 28%, balloting 24%, others (unballoted and unlawful action) 20%, and trade disputes 18%. This confirms employer focus has shifted towards balloting and away from strike notices and trade disputes in line with case law developments (see below). But it also confirms there has been less need-cum-opportunity for employers to seek injunctions on the basis of unballoted actions.

By sectoral distribution, 51% of applications concerned transport, with the majority found within rail (45%) and bus (36%) sub-sectors. Communications provided 12% (with 75% of concerning Royal Mail) and manufacturing 11%. The prison service accounted for 8% with the public sector (including prisons but not London Underground and Royal Mail) providing 18%. Compared to 1995-2004, this represents a further narrowing of sectors in which applications occurred as a result of a decline in applications in the public sector (local government and education especially) and a rise in applications in bus transport. The level of dominance of applications on the railways (underground, overground) has been maintained with the significance of particular organisations upheld, namely, London Underground, Royal Mail, prison service and the (nine) train operating companies. This narrowing elevates consideration of individual organisations' industrial relations climates as an explanatory variable. For example, banning industrial action in prisons, without the recourse of compulsory arbitration, has not led the absence of injunctions. Rather, they have been used to enforce the ban when action has been taken to oppose, in the main, government pay and staffing

policies. Meanwhile, the marked decline of Royal Mail injunctions after 2009 results from negotiation of extended no-disruption agreements in return for pay rises in preparation for staged privatisation. The absence of injunctions in mining reflects primarily the industry's decimation since the early 1990s (with the closure of the last pit in 2015). The relative absence of injunctions in manufacturing - given its often high union density and prevalence of strike-prone specialised component production and 'just-in-time' systems – highlights the extent of employment insecurity due to recessionary and competitive forces. Paucity of injunctions in construction indicates employer inability to injunct strikes and picketing because they are often not organised by unions (see Gall 2012).[9] Meantime, the health sector continues to be affected by partnership working and loyalty to patients, making industrial action less likely. Elsewhere, the private services sector is sufficiently poorly unionized (see BIS 2015) as to preclude much industrial action to possibly injunct. Related to the sectoral distribution, the most affected unions between 2005 and 2014 were Unite (and its predecessor, the Transport and General Workers' Union (TGWU)) with 26 applications, RMT (14) and Communications Workers' Union (CWU), Aslef train drivers' union, the GMB general union and Prison Officers' Association (POA) (either 5 or 6 each). These five unions accounted for 88% of all affected unions. Unite's dominance results from its presence as the largest union across a number of sectors, especially in transport and manufacturing while RMT's position results from it being a small union operating in the transport sector with a strategy of strike mobilization to pursue enhanced remuneration.

Turning to threats of application (Appendix 2), there were 51 in the nine years of 1996-2004 but 92 in the ten years of 2005-2014, representing absolute and relative (annual averages: 5.7, 9.2) increases. In 56% of cases employers gained a positive outcome (ballot halted, action not taken or ended) where 27% of these cases led to reballoting but with only three subsequent instances of industrial action. Meanwhile, 24% of cases saw balloting continue, action taken or continued. The remainder concerned either unknown outcomes or negotiated settlements. This success rate for employers compares favourably with that for applications and represents lower cost action. Grounds for threatening applications (n=92) comprised strikes notices (12%), trade disputes (3%), balloting issues (38%), others (unballoted and unlawful action) (19%), picketing (5%) and unknown (23%). By sector, transport (bus and rail especially) had less presence at 24% while communications (primarily newspapers and Royal Mail) recorded 21%, prisons 12%, central government 10%, local government 9%, manufacturing 5% and education 8%. In terms of affected unions, Unite (and its predecessors, TGWU and Amicus) were subject of 24% of threats while media unions (BECTU, NUJ) experienced 14%, UNISON public sector union 9%, Public and Commercial Services (PCS) union 8% with RMT and Aslef combined only being 10%. The differences between the respective sectoral concentrations of applications and threats to apply are accounted for by the methodology employed and by union ability to sustain industrial action. Thus, where threats were carried through this was recorded only in applications because the threats were acted upon, and few of unions outside RMT and Unite in transport have shown the willingness-cum-ability to continue with organising intended industrial action after receiving threats.

Comparing 2005-2014 to 1995-2004, the outcomes, grounds and sectoral distribution for threatened applications were not substantially divergent and for similar reasons with the exceptions of a) increased concentration on balloting deficiencies as grounds; and b) decline in industrial conflict in Royal Mail. In 80% of cases where definite outcomes are known (n=35), employers gained a positive outcome for their interests (with 25% of these cases leading to reballoting but only one instance of industrial action then forthcoming). In the remaining cases, strikes or IASOS continued. Grounds for threatened applications (n=49) comprised strikes notices 18%, trade disputes 18%, balloting issues 18%, others (unballoted and unlawful action) 18%, picketing 6% and unknown 18%. In terms of sectoral distribution, transport accounted for 27% (mostly rail) while media and entertainment

recorded 17%, prisons and Royal Mail 15% each, and the public sector (excluding prisons and Royal Mail) 19%.

Of the relationship between threats to apply and applications themselves, there were just under a third more threats than applications between 2005 and 2014, and 72% of applications were preceded by identifiable threats. Between 1995 and 2004, there were more applications than threats. The threats were made directly in dispute negotiations, in media statements or in letters from employers' lawyers to unions outside bargaining fora. The move from threat to application represents a continuation, through escalation, of employer action to prevent or stop industrial action (with a view to settlement of the dispute on employers' terms), constituting an industrial relations, rather than legal, tactic. Not all injunctions were preceded by threats, not for reason of 'catching' unions out but because in initiating proceedings to apply, notification prior to the application hearing is given and this serves as part of the threat process up until the hearing itself. The overall proportion of threats which do not lead to applications was 65% (for reasons cited above) suggesting most threats were taken seriously and effective.

Picketing, secondary action and occupations

The period 2005-2014 continued the trends established during 1995-2004 of a very low frequency of applications (and threats) concerning picketing and the continued absence of those concerning secondary action. This indicates the sustained decline in 'effective' picketing (defined as preventing the movement of goods, materials and workers into and out of workplaces) and the rise of 'token' picketing (signaling strike visibility to employers, media and public and opportunity for membership involvement). Seven applications existed during 1995-2004 (along with five threats thereof) with five applications (and one threat) for 2005-2014. Although the five applications concerned employer fear of pickets inducing significant numbers of (unballoted) employees to respect picketlines, it was notable employers in cases of mass picketing of distribution centres did not seek injunctions to end them. The absence of applications concerning secondary action reflects its virtual absence with previous occurrences at the likes of Royal Mail having dried up. The paucity of workplace occupations (Gall 2011) saw only three (eviction) applications to end such sit-ins.

Self-regulation

A third aspect to injunctions concerns self-regulation by unions as a result of their own perceived deficiencies to required conformance (especially in relation to case law developments). Thus, unions halted ballots, cancelled results or suspended intended actions through becoming aware of irregularities which may have provided grounds for employers to seek injunctions (and without the unions receiving threats employers might do so). Sixteen such cases were found from 1995-2004 (Gall 2006:339). By contrast, there were fourteen cases during 2005-2014. In both periods, three quarters of cases resulted in reballoting. Whilst such instances are less likely to come to light because unions do not normally publicise their own mistakes and climb-downs so no firm conclusion can be drawn, such instances continue and benefit employers (even if merely to delay balloting and action so allow counter-preparations).

Discussion

The juxtaposition of low strike levels and relatively large number of applications and threats appears incongruous. The annual average strike frequency for 1995-2004 was 188 while being 143 for 2005-2014 (and 614 for 1985-1994). There were on average 15.6 applications and threats per year for 2005-2014 and 13 for 1995-2004. While the extent of balloting is one factor helping determine the size of the canvass upon which employers may act, it exists alongside others helping explain the

incongruity, being management style, union strategy and climate of industrial relations at organisational and sectoral levels. Notwithstanding paucity of data on employer motivation, strike effectiveness provides more immediate explanatory purchase for it focuses upon qualitative, not quantitative, dimensions of strikes and IASOS. While affected unions often claim there is 'no right to strike' after being injuncted, it is more accurate to suggest injunctions tend to undermine the right to *effective* strikes because the vast majority of intended and actual strikes and IASOS go unchallenged by employers (indicating others factors like management style, union strategy and industrial relations climates bear upon the willingness and ability to negotiate pre-strike resolutions and make contingency arrangements). Recalling 71% of applications and 57% of threats for 2005-2014 were found in just three sectors (transport, communication and prisons) where the impact of action is immediate and significant, the primary reason most industrial action (especially strikes) does not attract applications or threats is because it does not pose serious disruptive threat to employer operations and revenue - even when there are high levels of unionisation and workplace organisation. This is as a result of being based upon one-day or two-day strikes or at most a series of one-day strikes over a period of some weeks. For 2005-2014, one-day strikes commonly accounted for around half of all strikes and when those lasting one or two-days are combined the proportion rises to around two thirds (Beardsmore 2006, Hale 2007-2010, ONS 2011-2015). Even though strike effectiveness is not merely a factor of strike length, most strikes do not then exert significant leverage, giving employers no compelling motivation to seek injunctive relief or threaten to do so.

Thus, short strikes (one day, two days) which pose serious disruption are found in particular economic sectors or parts of the public sector like transport, communications, prisons and border security where the strike impact is immediate, considerable and few alternative services are available, and where strikes are targeted at time limited/specific events like sporting competitions or national holidays. Hence, a number of characteristics are evident. Goods or services are perishable for they are required on the day to avoid loss and disruption to employers and 'lost' revenue cannot easily be recouped subsequently. Workers hold strategic positions within organisations (and their work processes) because of high degrees of integration and inter-dependency whereby withholding labour has an immediate and disproportionate impact upon all an employer's operations. Thus, operational processes are disproportionately reliant upon one group of workers which can create bottlenecks. In some cases (like prisons, Royal Mail and petrol supplies), external political pressure also exists to stop disruption to operations, further compelling employers to seek injunctions or threaten to do so. Scarcity of alternative workers to step in in order to maintain production of goods and service reifies these features. Such strikes represent two of the three sources of labour power (see Batstone 1988), these being disruptive capacity and labour scarcity. The third is political influence which public strikes are principally based upon. With little disruptive capacity or labour scarcity, coupled with inability to make strikes political 'hot potatoes' because of neo-liberalism's hegemony amongst all mainstream political parties (especially former social democratic ones), strikes in the public sector do not commonly face injunctions (11%, n=65) although the threat to apply is more pronounced (29%, n=91). Counter-factually, it can be ventured seeking to injunct public sector strikes which have little disruptive capacity and display little labour scarcity risks unnecessarily transforming them into political 'hot potatoes'.[10]

However, strike effectiveness can only provide partial explanation of employer behaviour. It cannot explain, for example, why not all rail operators made applications or threatened to when faced with strikes nor why the same rail operator applied for or threatened an application on one occasion when faced with a strike but not on another.[11] Given union strategy and vitality of union organisation within the rail industry can be taken as constants, management style (including strategic and tactical discretion) along with climates of industrial relations are likely to provide fruitful avenues for investigation. Similarly, strike effectiveness cannot explain why employers make threats and initiate applications at different stages in the collective bargaining process. For example,

some applications were made after industrial action began, suggesting scope for opportunity to apply was not identified until late in the day or industrial action was harder hitting than expected. These are issues of management intelligence. Finally, developments in case law have influenced management's calculation of opportunities for the grounds for applying for injunctions or threatening to, thereby, providing employers with enhanced tools of legal recourse.

Thus, between 2005 and 2014, domestic case law developments have further framed how employers and unions have acted by being variations on existing themes. Essentially, legal interpretations have widened the scope for awarding injunctions by increasing the difficulties for unions in seeking to comply with *de facto* revised requirements. These developments have taken place despite the reforms enacted by Labour governments which themselves sought to simplify some of the requirements with the effect of making them less onerous for unions (Simpson 2005). Among the most significant precedent-setting injunctions have been those granted to Royal Mail (2007), Metrobus (2008), EDF Energy Powerlink (2009), BA (2009, 2010), Network Rail (2010), and Milford Haven Port Authority (2010).[12] These have primarily concerned whether it is the law's letter or spirit that is used to judge applications in regard of i) reporting the number of workers, category and their locations; ii) margins (+/-) of error of those balloted; and iii) form of the required notifications. The trajectory until 2010-2011 was of judicial interpretation enforcing compliance with the letter of the law, even to the extent that mistakes, inaccuracies and deficiencies of no material effect on ballot outcomes were deemed valid grounds. But in successful appeals against the BA (2010) injunction and the Serco and London & Birmingham cases, some respite for unions was gained with the latter two cases 'establish[ing], for the first time, the duty of the courts to take into account the unions' right to strike in international law, when applying or interpreting the statutory ballot notice provisions, and the nature and scope of the obligations they impose' (Ewing 2011). However, respite was rather less fulsome than many lawyers hoped for (see e.g., Arthurs 2011) judged by the number of injunctions subsequently granted on the same grounds as before or the number of cases used to successfully threaten unions with (see Appendix 1 after the United Plastics and Closure case, and Appendix 2 after the Prison Service case).

Comparison with Ireland

Brief, concise comparative analysis, where other countries provide for employers seeking injunctions in industrial disputes, is fraught because of significant differences in both laws governing industrial action and systems of industrial relations. For example, while employers have gained injunctions against strikes in transport (air, rail and sea) in Australia and Germany, frequent, significant changes in regulating industrial action along with continuation of industrial awards, *inter alia,* in the former and significant restrictions on the right to strike within the period of bargaining agreements and the banning of strikes by civil servants, *inter alia,* in the latter make comparative analysis unproductive here. Indeed, comparison of legal regimes governing industrial action within the European Union (Warneck 2007) highlights the large array of significant differences. Thus, comparison with Ireland is productive in illuminating key features of the British system of regulating industrial action with regard to injunctions given broad, but not complete, similarity between the two.

Historically, the framework for governing industrial action in both countries has been the *Trade Union Disputes Act 1906.* This introduced legal immunities for unions, not a positive right to strike. Although an independent state since 1922, Ireland did not establish its own salient legal framework until much later through the *Industrial Relations Acts* (1946, 1969, 1990).[13] These introduced disputes resolution methods (e.g., the Labour Court) while the 1990 Act juridified immunities for unions taking industrial action by requiring pre-action secret ballots, prior notification of action to employers, and prevents *ex parte* injunctions where ballots and notification are adhered to. The 1990 Act also established the Labour Relations Commission to further aid dispute resolution (while

the conciliation and arbitration service in Britain, ACAS, was stripped of what statutory powers of intervention it had). Social partnership, regulating wages rises throughout the economy, operated from 1987 to 2009 (with a weakened form existing in the public sector thereafter), and successive ineffective systems for gaining union recognition were introduced. In sum, there is substantial similarity with regard to the legal framework governing employers' ability to apply for injunctions whilst concomitant the systems of industrial relations in both countries have diverged in several substantial aspects. Thus, variance in relative frequency of applications and significance of their outcomes is expected because whilst injunctive relief is available in both jurisdictions, in Ireland motivation to seek it differs along with other substantial recourses for dispute resolution being available.

Before examining the data on injunctions in Ireland, establishing the size of the canvass on which they operate is necessary. While workforce sizes differed markedly by 2015 (Britain 31m, Ireland 2m), union density followed the same trajectory, falling in Britain from 32% (1995) to 29% (2003) and 25% (2014) (BIS 2015). In Ireland, it fell from 46% (1994) to 38% (2003) and 28% (2014) (Sheehan and Farrelly 2015). Between 2004 and 2014, Irish private sector density fell from 27% to 17% and from 69% to 64% in the public sector (with the latter accounting for a growing proportion of all members, namely, 40% to 55%). In Britain, the comparable figures are 17% to 14% in the private sector and 59% to 54% in the public sector (with the latter accounting for 57% to 58% of all members). OECD data records absolute membership at 0.5m (1999), 0.54m (2005) and 0.52m (2013) in Ireland and 7m, 6.7m and 6.5m respectively in Britain. Strike frequency in Ireland has fallen from above 30 per annum (pa) between 1990 and 2000 to far less than 30pa from 2001 with an average of 10pa between 2004 and 2014 (CSO, ILO). Meanwhile, in Britain, from 1990 to 2001 strike frequency fell from over 600pa to just under 200pa (Hale 2007).[14] Table 1 shows further decline thereafter. Data on membership and strikes provide basic parameters for assessing the prevalence of injunctions (given strikes by non-union members are rare).[15] By way of illustration, and in terms of current (2014/2015) workforce size (15:1), union membership (12:1) and strikes (14:1), Britain is greater by a factor of at least twelve.[16] All other things being equal, this gives some guidance as to the expected level of in injunctions and the ratio to Britain.

Using the same sources (quality press, specialist press like *Industrial Relations News*, union press releases) covering 1995-2004 and 2005-2014, 28 and 29 applications were made respectively. Compared to Britain, what stands out is the absence of decline while injunctions ran at over four times expected levels in both periods (6.5 and 5.4 injunctions respectively). Moreover, not all things were equal given social partnership and extensive dispute resolution means. The explanation for this disparity is found in grounds for applications (of which all but four were granted). In the respective periods, 71% (n=31) and 69% (n=29) concerned picketing (where a small number of applications cited more than one ground). In Ireland, picketing is far more commonly practiced because it is used effectively (with picketlines widely respected by other workers) and is aided by what is classified as 'secondary', thus unlawful, picketing in Britain not being in Ireland. Case law holds lawful picketing can include premises from which employers conduct business other than strikers' own workplaces. Unlike in Britain, picketing does require balloting so the common ground for employers seeking to injunct picketing is through challenging the veracity of the ballot. But other grounds include *bona fide* secondary picketing (including by affected third parties), intimidatory behaviour on picketlines and picketing by unballoted workers or non-employees. Yet because picketing does not require advanced notification, applications are made once it has begun and, with injunctions against picketing being time-limited, further court hearings are often occasioned where unions seek to restart picketing.[17] The other side to explaining the prevalence of picketing injunctions is the paucity of injunctions over strikes and other forms of industrial action. In addition to injunctions against sit-ins and occupations (n=6), very few strike ballots (n=8) were challenged between 1995 and 2014. Those that were mainly concerned air transport where striking would close down operations

(without picketing). This situation arises for four reasons. First, and contrasting markedly with Britain, the *Industrial Relations Act 1990* 'is essentially permissive [where] the decision [about] when and how to hold a ballot [is] … decided by the union's rules. The decision as to the question or questions that are to be asked is also that of the union; there is no requirement that only appropriate questions be asked' (Kerr 1991:248). Thus, employers cannot easily interfere in what are considered to be internal union processes. Second, and following from this, it is the spirit, not the letter, of the law which holds sway, limiting latitude for precedents extending the scope of the law (O'Keefe 1998 *cf.* Kerr 1991:244). Third, the onus is on the defendant to establish it acted reasonably – not the plaintiff that the defendant acted unreasonably, with the effect that significant mistakes and errors are permissible. Fourth, where important case law precedents have been set – as in the Nolan Transport v SIPTU in 1998 (O'Keefe 1998) and notwithstanding the Crampton v BATU case (*Irish Times* 16 January 1998) – the outcomes have often favoured unions.

While far fewer threats existed (13 from 1995-2014), similar to Britain, damages were seldom sought. Between 1995 and 2014, transport (mostly rail and bus) accounted for 26% and manufacturing 19% of injunctions, with the public sector (excluding transport) marked by its relative absence (7%) while construction accounted for 30% and private services 14%. Compared to Britain, transport was not nearly so dominant and construction was far more so, reflecting particularly the boom in construction and that picketing is the most effective tool workers have in this sector. Just over two thirds of injunctions concerned two unions (Services, Industrial, Professional and Technical Union (SIPTU) and Building and Allied Trades Union (BATU)) and of these two thirds concerned SIPTU). SIPTU is Ireland's largest union, accounting for some 38% of all members, and organises in construction, health, education, transport and manufacturing.

Conclusion

Analysing the frequency, nature and outcomes of employer applications (and threats thereof) for injunctions in collective industrial disputes between 2005 and 2014 indicates employers recorded considerable success in preventing unions from attempting to gain leverage over them by using industrial action. Indeed, of known final outcomes of all the industrial disputes involving applications for injunctions and threats thereof, in only 16 cases did negotiations resolve the dispute, whereby resolution involved employer compromise so the vast majority of final outcomes favoured employers. This underscores employers' ability to utilise, in the main, procedural violations to defend their substantive interests. The task of understanding the relative paucity of injunctions and threats thereof (*vis-à-vis* ballots producing mandates for industrial action) and their relative abundance (*vis-à-vis* number of strikes and the period 1995-2004) can be illuminated to a large degree by the notion of strike effectiveness. Comparative analysis highlights that in Ireland picketing is the most effective form of industrial action and the most vulnerable to injunctive relief with balloting for striking being more legally permissive. It also highlights these two states have not sought to ban strikes (alongside imposing compulsory arbitration) as some others have in 'essential services' like transport and communications. Rather, the ability - and not right - to strike has been made conditional upon fulfilling a number of requirements.

Future research can determine whether the trends identified during 2005-2014 were maintained, accelerated or altered by the *Trade Union Bill* - will its changes obviate employer 'need' for injunctive relief (because mandates are not gained) and provide new latitude for injunctive relief where thresholds are met (especially with regard to picketing)? Considerable union and sectoral variation is anticipated. For example, while the RMT in overground rail transport is likely to be little affected, it would be in underground rail and bus transport, with firefighters' experiencing similar variation and large public sector unions likely to be particularly affected (Darlington and Dobson 2015). With the *Trade Union Bill*, the trajectory Britain has taken since 1979 becomes an ever more

idiosyncratic route to restricting industrial action in general and specific (i.e., public and essential services) terms compared to countries which have outlawed strikes in certain sectors (post, prisons, transport) but put compulsory arbitration in their place for dispute resolution. The benefit to capital and the neo-liberal state in Britain of the *Trade Union Bill* is that by effectively allowing unions to restrict their own right to take industrial action, no alternative such means of dispute resolution need be offered.

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Notes

[1] The periods 1995-2005 and 1980-1995 were analysed by Gall (2006) and Gall and McKay (1996) respectively. The analysis for 1995-2005 ended in August 2005. In order to examine full years and not exclude September to December 2005, this article covers 1 January 2005 to 31 December 2014.
[2] A trade dispute is a dispute between workers and their employer(s) over the terms, conditions and matters of employment. It was constructed so as to exempt 'political' strikes where there is no dispute with the employer or where the dispute is with the government.
[3] There is some protection for workers taking part in officially sanctioned and lawfully organised strike and industrial action such as protection from unfair dismissal for up to twelve weeks and a ban on the supply of agency staff to provide replacement workers. However, such industrial action still constitutes a breach of civil contract and the punitive measures against employers breaching these rights are generally not held to be significant.
[4] Similarly, it is exceptional for employers to seek damages and compensation from unions should industrial action lose immunity.
[5] The British and Irish Legal Information Institute (BAILII) is the main repository of available case law. However, many judgments on injunctions are not written up and published so BAILII's holdings are relatively small.
[6] Only a few lawyers representing unions were willing to enter into correspondence so this means could not be used to adequately examine employer motives. As with n3, paucity of available written decisions as well as court transcripts did not ameliorate this.
[7] A precise proportion is difficult to ascertain because while most ballots cover both striking and IASOS, and unions often deploy both, employer ire is usually targeted against strikes.
[8] The majority (two thirds) of cases of reballoting took place within the transport sector, reinforcing the notion of 'strike effectiveness'.
[9] The same was true over picketing in the 2011-2012 BESNA dispute.
[10] Given that the number of ballots organised (as a result of the fragmentation of employer structures) and the numbers covered in these bargaining groups is substantial, there will have been more than ample latitude to seek injunctions, and especially so when the criteria are meeting the letter, not spirit, of the law. This was very much so for the 30 November 2011 public sector general strike over pension reform.
[11] Moreover, specific to the train operating companies is the ability to apply for state funding to reimburse 'lost' revenue on strike days.
[12] In granting injunctions (BA (2009), Network Rail), courts discussed 'proportionality' whereby, it was argued, likely passenger disruption brought into question the right to take action. However, this argument was not a ground for granting the injunctions and has yet to be revisited in subsequent cases.
[13] As the focus is upon injunctions against unions, injunctions against pickets themselves are not included.
[14] Minimums thresholds for inclusion are similar: in Ireland stoppages lasting at least one day with the total time lost 10 or more days and in Britain stoppages involving 10 or more workers and lasting one day or more unless the number of days lost is 100 or more.
[15] For Ireland, neither data on the frequency of IASOS nor ballots for industrial action is available.
[16] Between 2005 and 2014 with regard to number of strikes, the ratio was 17:1.
[17] In a few cases, picketers were jailed for contempt of court for failing to desist.

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Table 1: Strikes and ballots for strikes and IASOS, 2002-2014

Year	Strike ballots (success rate)	Strikes	IASOS ballots (success rate)
2002	613 (83%)	146	519 (97%)
2003	684 (83%)	133	601 (94%)
2004	762 (83%)	130	709 (93%)
2005	663 (85%)	116	562 (93%)
2006	1083 (84%)	158	541 (94%)
2007	634 (89%)	142	555 (95%)
2008	660 (84%)	144	559 (93%)
2009	460 (82%)	98	435 (93%)
2010	488 (88%)	92	399 (97%)
2011	906 (94%)	149	388 (97%)
2012	585 (83%)	131	366 (97%)
2013	469 (89%)	114	318 (88%)
2014	628 (87%)	155	368 (89%)
Totals	8635	1708	6320
Averages	664 (86%)	131	486 (94%)

Source: ONS (2012, 2015).
Note: Comparable figures for ballots for strikes and IASOS before 2002 and after 2011 are not available. With the former period, extant figures suggest numbers may have risen since the 1990s (Gall and Cohen 2013:98-102). Figures for cases of IASOS are not available but are likely to have fallen in line with those of strikes, being less frequent on an annual basis than strikes (Gall and Cohen 2013:91-94).

Table 2: Employer applications, and threats of applications, for injunctions, 2005–2014

Year	Applications	Threats of applications
2005	4	10
2006	4	14
2007	7	8
2008	5	8
2009	11	13
2010	14	10
2011	6	10

2012	5	9
2013	5	4
2014	4	6
Totals	65	92

Source: see methodology.

Note: If the specific reason included in the threat becomes the basis of the heard application, only the latter instance is recorded. If, however, the reasoning in the threat is different from that heard in the application, both are recorded.

Appendix 1: Employer applications for injunctions, 2005-2014

Organisation	**Date**	**Industrial sector**	**Union(s) involved**	**Basis of application**	**Outcome where known**
Trinity Mirror	2005	Newspapers	NUJ	Strike notice	Granted, further strikes called off, union reballoted
Central Trains	2005	Railways	RMT	Balloting	Refused, strikes continued
Midland Mainline	2005	Railways	RMT	Ballot rendered unlawful by unofficial action	Granted
Gate Gourmet	2005	Air transport	TGWU	Picketing and demonstrating	Granted on picketing
Mackinnon	2006	Textiles	Community	Picketing	Refused, picketing continued
South West Trains	2006	Railways	Aslef	Ballot paper	Granted, union reballoted
Prison Service	2006	Prisons	POA	Warders in Liverpool had no right to take lawful strike action despite balloting	Granted
Prison Service	2006	Prisons	POA	Action of union circular urging members not to work overtime amounted to industrial action and was as such unlawful	Application for hearing stopped as government withdrew application
East London Bus Group	2007	Transport	TGWU	Balloting	Granted, strike cancelled
Royal Mail	2007	Communicat-ion	CWU	Ballot notice	Granted, ballot cancelled
Prison Service	2007	Prisons	POA	Action amounted to industrial action and was as such unlawful	Granted, union instructions stood down concerning overtime
Anglian Home Improvements	2007	Manufactur-ing	GMB	Balloting, strike notice, number of ballots	Refused, strikes took place
Explorer Group	2007	Vehicles	GMB	Balloting, others	Refused, strikes took place

Prison Service	2007	Prisons	POA	Legally binding no-strike agreement broken	Granted, strike continued but ended early
Bernard Matthews	2007	Food processing	Unite	Balloting	Judge dismissed application as negotiations led union to acknowledge errors and call off strike
South Eastern Trains	2008	Railways	RMT	Ballot notice	Union called off strike before application hearing began so application withdrawn
Metrobus	2008	Transport	Unite	Ballot, ballot result and strike notice	Granted, second day of discontinuous strike cancelled
First Hampshire	2008	Transport	Unite	Notice of action	Granted, union reballoted
Royal Mail	2008	Communications	CWU	Ballot notice	Granted, strike cancelled
Royal Mail	2008	Communications	CWU	Terms of ballot	Granted, strike cancelled
Royal Mail	2009	Communications	CWU	Ballot notice (for three London offices)	Granted, strikes cancelled
First Bus (South Yorkshire)	2009	Transport	Unite	Unknown	Refused, right of appeal refused, strike went ahead as planned
Royal Mail	2009	Communications	CWU	Unknown (for London office)	Refused
East Midland Trains	2009	Transport	Aslef	Unballoted industrial action	Granted, action continued
First Bus (Potteries)	2009	Transport	Unite	Balloting	Granted
EDF Energy Powerlink	2009	Transport	RMT	Balloting	Granted, union reballoted, strike action taken
First Bus	2009	Transport	Unite	Unknown	Refused
Metrobus	2009	Transport	Unite	Ballot notice, result notice	Granted, appeal rejected
Virgin Trains	2009	Transport	RMT	Balloting	Granted, union reballoted
McBrides	2009	Manufacturing	GMB	Unknown	Refused, strike went ahead
BA	2009	Transport	Unite	Balloting	Granted, union reballoted
First London buses	2010	Transport	Unite	Strike mandate invalid	Granted, strike cancelled
Tesco	2010	Supermarket	Unite	Ballot notice, result notice	Granted

Milford Haven Port Authority	2010	Transport	Unite	Strike notice	Granted, strike cancelled, new strike scheduled but negotiations led to its standing down and agreement, injunction overturned on appeal
Arriva Buses Wales	2010	Transport	Unite	Unknown	Refused, strike cancelled as a result of further successful negotiations
Network Rail	2010	Transport	RMT	Balloting	Granted, union reballoted
Prison Service	2010	Prisons	POA	Action amounted to industrial action and as such unlawful	Application adjourned after undertaking received from POA
Johnston Press	2010	Newspapers	NUJ	Trade dispute	Granted, strike cancelled, union reballoted
Culture and Sport Glasgow	2010	Local government	Bectu, GMB, Unite, Unison	Picketing	Granted but strikes continued
BA	2010	Transport	Unite	Deficiencies in notice to members	Granted, strike reinstated upon successful appeal against injunction
Tube Lines	2010	Transport	RMT	Balloting	Refused, negotiations resolved dispute
Omagh Meats	2010	Food processing	Unite	Unknown	Granted
London Fire and Emergency Planning Authority	2010	Fire and rescue	FBU	Picketing	Granted, strike stood down
Midland London	2010	Transport	Aslef	Balloting	Granted, strike cancelled, overturned on appeal, negotiations resolved dispute
London Underground	2010	Transport	Aslef	Balloting	Refused, strike went ahead
Serco	2011	Transport	RMT	Ballot notice	Granted, strike stood down, overturned on appeal
Arriva Trains Wales	2011	Transport	RMT	Balloting	Strike cancelled before application heard, union announced would hold new ballot
United Closures and Plastics	2011	Manufacturing	Unite	Balloting	Refused, strikes went ahead
Centrepoint	2011	Housing charity	Unite	Balloting	Union reballoted members, strike then called off after negotiations led to agreement

Warrington Borough Transport	2011	Transport	Unite	Balloting, trade dispute	Strike stood down
London Underground	2011	Transport	Aslef	Balloting – non-involved workers balloted	Refused, strike went ahead
Balfour Beatty Engineering Services	2012	Electrical contracting	Unite	Balloting	Refused, negotiations then led to agreement
Caterers Offshore Trade Association	2012	Offshore oil and gas	RMT, Unite	Ballot notification	Refused, Unite members voted against striking and RMT members, which voted to strike, were not prepared to strike on their own
Arriva Shires/Go Ahead London General/Metroline	2012	Bus transport	Unite	Balloting and ballot notification	Granted, strike proceeded in 17 other bus companies, members reballoted in 3 companies, union appealed
Home Office	2012	Civil service	PCS	Balloting	Withdrawn immediately before application heard when strike called off
Arriva North	2012	Bus transport	Unite	Balloting	Refused, strike went ahead
Home Office	2013	Civil service (border agencies)	PCS	Balloting	Strike stood down before application heard
Future Directions	2013	Care sector	Unison	Strike notice	Granted and strike stood down but after re-notification strikes held
Royal Mail	2013	Communications	CWU	Unballoted action	CWU undertook not to induce members to take industrial action in reliance upon a consultative ballot
East Midlands Trains	2013	Rail transport	RMT	Mandate for IASOS exceeded as action constituted strike action	Refused, IASSOS continued, appeal won and some forms of IASOS withdrawn, negotiations led to acceptable compromise to union
CityLink	2013	Road transport	RMT	Balloting	Application stood down as RMT withdrew notice of strike, reballoting undertaken.
Lambeth College	2014	Education	UCU	Against all out strike but one day went ahead	Granted, reballoted on all out action, ballot won and action taken
Glasgow Life	2014	Leisure services	Unison	Unballoted action (picketing in worktime)	Refused as protest not found to be picketing in worktime

Association of Colleges/Westminster Kingsway College	2014	Further education in England	UCU	Ballot mandate expired	Strike stood down
ISS (Woolwich hospital)	2014	NHS	GMB	Unknown	Refused, strikes continued

Appendix 2: Employer threats of application for injunctions, 2005-2014.

Organisation	**Date**	**Industrial sector**	**Union(s) involved**	**Basis of possible application**	**Outcome**
ANSA Logistics	2005	Road transport	TGWU	Secondary action/ secondary picketing	Threat not acted upon, action continued
BA	2005	Air transport	TGWU	Secondary action/unofficial action	Threat not acted upon, action ended
BBC	2005	Broadcasting	BECTU, NUJ	Secondary picketing	Picketing withdrawn
Express Newspapers	2005	Newspapers		Balloting	Threat withdrawn, strike went ahead
South London Guardian	2005	Newspapers	NUJ	Secondary picketing	Threat not acted upon, strikes continued
Watson Steel	2005	Construction	Amicus	Unballoted, unofficial action	Overtime ban withdrawn, action ended
Grampian Country Food	2005	Food processing	T&G	Balloting	Strike stood down, reballot led to strike
HSBC	2005	Finance	Amicus	Balloting	Planned strike stood down
Independent Newspapers	2005	Media	NUJ	Ballot notice	Reballoted
Department of Work and Pensions	2005	Central government	PCS	Balloting	Reballoted
Scottish Media Group	2006	Media	NUJ	Strike notice	Reballoted
Royal Mail	2006	Communicat-ions	CWU	Unofficial action supported by union	Repudiation
South West Trains	2006	Transport	ASLEF	Unlawful action	Unknown
Guardian Newspapers	2006	Media	NUJ	Notice	Reballoted

Guardian Newspapers	2006	Media	NUJ	Notice	Reballoted
Asda	2006	Retail	GMB	Balloting	Planned strike stood down
Babcock Defence Services	2006	Defence	Amicus	Unknown	Outcome unknown
Coventry City Council	2006	Local government	Unison	Unknown	Strike action cancelled, reballoted
Royal Mail	2006	Communicat-ions	CWU	Unballoted strike	Repudiation
Prison Service	2006	Prisons	POA	Unballoted action	Industrial action stood down
Prison Service	2006	Prisons	POA	Unballoted action	Industrial action stood down
Virgin Rail	2006	Transport	RMT	Balloting	Strike action stood down
Prison Service	2006	Prisons	POA	Unballoted action	Strike action stood down
Prison Service	2006	Prisons	POA	Unballoted action over job evaluation scheme	Instructions withdrawn
Northern Trains	2007	Railways	Aslef	Unknown	Settlement to dispute so strike action stood down
Scottish Prison Service	2007	Prisons	POA	Unballoted strike	Strike action stood down
Prison Service (England and Wales)	2007	Prisons	POA	Unballoted action	Industrial action stood down
Oxford City Council	2007	Local government	TGWU	Picketing	Strikes continued, picketing discontinued
London Underground	2007	Transport	RMT	Unballoted strike	Strike action stood down
Glasgow City Council	2007	Local government	Unison	Balloting	Work-to-rule stood down, strike ballot conducted
Prison Service (England and Wales)	2007	Prisons	POA	No right to strike	Outcome unknown
Prison Service (England and Wales)	2007	Prisons	POA	No right to strike	Strike continued, application applied for (see above)
BA	2008	Transport	BALPA	Strike would contravene EU competition law	Strike action not taken
Telegraph Media Group	2008	Newspapers	NUJ	Trade dispute	Outcome unknown
British Library	2008	Civil service	PCS	Unspecified threat	Ballot continued
Cabinet Office	2008	Civil service	PCS	Unspecified threat	Ballot continued
Non-Departmental Public Body	2008	Civil service	PCS	Unspecified threat	Ballot continued
Non-Departmental Public Body	2008	Civil service	PCS	Unspecified threat	Ballot continued

Non-Departmental Public Body	2008	Civil service	PCS	Unspecified threat	Ballot continued
First Group, Arriva, Metroline, East London Buses and East Thames Buses	2008	Transport	Unite	Ballot notice	Second day of planned strike action stood down
People's Printing Press Society	2009	Newspapers	NUJ	Unspecified	Balloting process continued, strikes took place
London Midland	2009	Railways	RMT	Strike notice	Strike days cancelled and rescheduled, strike action continued
London Underground	2009	Railways	RMT	Strike notice	Strike ballot re-run, negotiations resolved dispute
Department of Education	2009	Schools	NUT	Unlawful action	Outcome unknown
UCEA (on behalf of 78 universities)	2009	Education	UCU	Balloting	Ballot suspended and not re-run
Royal Mail	2009	Communicat-ions	CWU	Balloting	Negotiations resolved dispute
ECIA (on behalf of members)	2009	Construction	Unite, GMB	Balloting	Negotiations resolved dispute
Pinewood Studios	2009	Media	BECTU	Strike notice	Strike cancelled
London Metropolitan University	2009	Higher education	Unison	Strike notice	Strike cancelled and rescheduled
Pinewood Studios	2009	Media	BECTU	Ballot notice	Strike ballot cancelled and not re-run
BA	2009	Transport	Unite	Unspecified threat	Ballot and strike dates set
Virgin Trains	2009	Transport	TSSA	Unknown	Strike cancelled, new ballot held
BA	2009	Transport	Unite	Balloting	Strike preparations continued
Fujitsu	2010	IT	Unite	Strike notice	Threat to apply for injunction withdrawn, strikes continued
Tesco	2010	Supermarket	Unite	Balloting	Action stood down
Manchester Metropolitan University	2010	Education	Unison	Balloting	Ballot suspended, reballoted
Department for Children, Schools and Families	2010	Education	NAHT, NUT	Trade dispute	Action went ahead
BA	2010	Transport	Unite	Mandate does not cover new issues	Union announced would hold new ballot
Tube Lines	2010	Transport	Aslef	Balloting	Negotiations resolved dispute
BT	2010	Communicat ions	CWU	Balloting	Ballot cancelled, negotiations resolved dispute

Mirror Group Newspapers	2010	Communications	BAJ	Balloting	Outcome unknown
UK Border Agency	2010	State security	ISU	Unspecified	Strike cancelled
Glasgow City Building	2010	Local government	Unite	Unspecified	Strike ballot cancelled
Great Western Ambulance Service	2011	Health service	Unison	Industrial action notice	Industrial action stood down but notice re-issued, negotiations resolved dispute
BA	2011	Transport	Unite	Trade dispute and balloting	New ballot organised
London Underground	2011	Transport	RMT	Balloting	New ballot organised
John Port School	2011	Education	NASUWT	Unspecified	Strike action continued
Prison Service)	2011	Prisons	POA	No lawful right to take industrial action	No strike took place
Dingle secondary school, Liverpool	2011	Education	NASWUT, NUT	Unballoted industrial action	Outcome unknown
Burtons	2011	Food production	BFAWU	Balloting	Reballoting intended but negotiations resolved dispute
Barnet Council	2011	Local government	Unison	Unspecified	Application not proceeded with, strike went ahead
Balfour Beatty Engineering Services	2011	Electrical contracting	Unite	Balloting	Union reballoted
Prison Service	2011	Prisons	POA	No lawful right to take industrial action	Work time union meetings went ahead as planned
Highlands and Islands Airports Ltd	2012	Transport	Prospect	Balloting	Reballoting led to strike mandate but negotiations resolved dispute
Primark	2012	Retailing	USDAW	Strike notice	Reballoting led to new strike mandate but negotiations resolved dispute
Greenwich Leisure	2012	Leisure services	Unite	Unknown	Strike proceeded.
Sixth Form Colleges Forum	2012	Education (Sixth form colleges outside London in England)	NUT	Ballot paper and notice	Strike called off (although London strike not challenged)
Hoyer	2012	Transport	Unite	Balloting	Reballoted, returning vote for IASOS but not for strike action
Prison Service	2012	Prisons	POA	Unballoted action	Strike action stood down
Greater Anglia	2012	Transport	RMT	Balloting	Ballot stood down

Remploy	2012	Manufacturing	GMB, UNITE	Balloting	Action delayed for a week
Ministry of Justice	2012	Civil service	PCS	Deficiencies in balloting process	Strike action stood down. Re-balloted and took strike action.
Royal Mail	2013	Communications	CWU	Unlawful action	Several threats made in May and June 2013 over boycott of non-Royal Mail users of network
University of Sussex	2013	Education	Pop-Up Union	Balloting	Union cancelled ballot
Newsquest	2013	Newspapers	NUJ	Strike notice (company name, notification period)	Union successfully reballoted for strike action
Glasgow City Council	2013	Social care	Unison	Failure to repudiate unofficial strike	Outcome unknown
Fusion Lifestyle	2014	Leisure	Unite	Balloting process	Reballoted members and took strike action
First Glasgow	2014	Transport	Unite	Ballot notice	Reballoted members, negotiations resolved dispute
Glasgow Life	2014	Leisure services	Unison	Strike notice	Strike stood down. No reballot
Council of Scottish Local Authorities	2014	Local government	Unison	Balloting	Revised pay offer led to strike being stood down
Lambeth College	2014	Further education	UCU	New terms of offered for agreement requiring new ballot	Ballot suspended, new ballot organized and strike action taken
National Gallery	2014	Arts	PCS	Basis of mandate	Strikes stood down. Reballoted, strikes taken.